

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Bail Appl..No. 5188 of 2007()

CMP.4834/2007 of J.M.F.C.,MAVELIKKARA
CRIME NO.263/07 OF NOORANADU POLICE STATION
.....

: PETITIONER/A1

SUGATHAN, AGED 37,
S/O.NANU, ARUN BHAVAN,
KUTHIRAKUTTUM THADAM, PATTUR MURI,
NOORANADU VILLAGE.

BY ADV. SRI.C.P.UDAYABHANU

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
C.I. OF POLICE, NOORANADU POLICE STATION,
(CRIME 263/07) REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.5188 of 2007

Dated this the 24th day of August, 2007

ORDER

Application for regular bail. The petitioner is the 1st accused. Altogether there are 3 accused persons. Accused 2 and 3 are the wife and brother of the petitioner. The crux of the allegations is that the accused persons entertained ill will and animosity against the deceased. The deceased had filed a complaint against them before the police. On account of such animosity, the petitioner along 2 other accused allegedly caused injuries to the victim by stabbing him with a knife. The other two accused did not use any dangerous weapons. They allegedly threw stone and hit him with hands. The petitioner using a dangerous weapon - a knife allegedly planted a stab on the victim. The victim who suffered the injuries on 21.07.07 had succumbed to those injuries later on 09.08.07. Crime was initially registered under Section 308 I.P.C and Section 3(1)(x) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. Later the Section was altered to Section 307 I.P.C. Later consequent to the death of the victim, the offence under Section 302 I.P.C has also been alleged.

2. The petitioner was arrested on 01.08.07. He continues in custody from that date. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The learned counsel further submits that even if the entire allegations were accepted, the petitioner cannot reasonably be found guilty of the capital offence of murder. In these circumstances, it is prayed that a lenient view may be taken and the petitioner may be enlarged on bail.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegations are serious. Accused 3, it is submitted, has been recently arrested. The 2nd accused, a woman, has not so far been arrested. Investigation is not complete. This is too early to consider the petitioner's application for bail favourably. Investigator in a serious crime like this may be granted reasonable time to complete the investigation. There is no merit in the allegation that the allegation even if accepted in toto, cannot reveal the offence under Section 302 I.P.C. The nature of the weapon used, the nature of the injury inflicted and the consequence of the injury must definitely convey that there is prima facie acceptable material to conclude that the offence under Section 302 I.P.C has been committed, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. I shall carefully avoid any detailed discussions on the acceptability of the allegations or the credibility of the data collected. Suffice it to say that I am satisfied that there is merit in the opposition raised by the learned Public Prosecutor. In a crime like this, the investigator is certainly entitled for further time to complete the investigation. I find no merit in the contention that the allegation under Section 302 I.P.C is totally unjustified.

5. This application for regular bail is, in these circumstances, dismissed, but with the observation that the petitioner shall be at liberty to move the learned Sessions Judge or this Court for bail again at a later stage of the investigation - not, at any rate, prior to 07.09.07. The investigator shall in the meantime make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

rtr/-